FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 773/2006

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : February 26, 2007.

Heard Shri Sonak, the learned A.G.P. for the appellants.

By this first appeal, the appellants challenge the judgment and Award passed by the reference Court on 2/5/2003.

It is the case of the appellants that Section 4 notification was issued on 22/9/1988. The Land Acquisition Officer passed the Award on 16/6/1992 and granted compensation @ Rs. 11,000/- per hectare. The respondent filed a reference application before the Collector, Yavatmal, who in turn, referred the matter to the Civil Judge, Senior Division, Kelapur. The respondent claimed compensation @ Rs. 50,000/- per hectare.

The reference Court after considering the evidence tendered by the parties on record, granted compensation to the respondent @ Rs. 20,000/- per hectare. The aforesaid order

enhancing the compensation to Rs. 20,000/- per hectare is challenged by the appellants in this first appeal.

Shri Sonak, the learned Assistant Government Pleader, submitted that the reference Court was not justified in allowing the application as the reference was clearly barred by limitation. It is submitted on behalf of the appellants that though the Land Acquisition Officer passed the Award on 16/6/1992 and the respondent withdrew the amount of compensation under protest on 2/7/1992, the reference application was filed before the Collector on 5/8/1992. The learned A.G.P. further submitted that the reference Court was not justified in granting compensation @ Rs. 20,000/- per hectare when the Land acquisition Officer was justified in granting the compensation @ Rs. 11,000/- per hectare.

I have perused the original record of the Land Acquisition Case No. 409/2002 and also the judgment delivered by the reference Court on 2/5/2003. Though the Land Acquisition Officer passed the Award on 16/6/1992, nothing was produced by the appellants' side before the reference Court to show that the respondent had knowledge about the passing of the Award on 16/6/1992 itself. The appellants also did not produce any evidence before the reference Court to

show that the notice under Section 1(2) was immediately served on the respondent after passing of the Award. It appears from the Award that the respondent received the amount determined by the Land Acquisition Officer, on 2/7/1992. It has further revealed from the deposition of the respondent that the respondent was not himself present before the Land Acquisition Officer at the time of passing of the Award on 16/6/1992. It is further deposed by the respondent that after receiving the notice under Section 12 (2) of the Land Acquisition Act on 2/7/1992, he withdrew the amount of compensation under protest on 2/7/1992 itself. It appears from the record that the reference application filed by the respondent before the Collector was not barred by time.

For enhancing the compensation payable to the respondent, the reference Court considered the 7/12 extract produced by the respondent and the receipts issued by the Federation towards the supply of food-grains for a considerable period of time. Considering the oral evidence tendered by the respondent himself and after considering the documents at Article A and the Exhs. 20 and 21, the reference Court held that the market value of the land was at Rs. 20,000/- per hectare. The reference Court further held that the respondent was getting annual net profit from the acquired land to the tune

of Rs. 800/- to Rs. 2000/- per hectare. Though the respondent had claimed compensation @ Rs. 50,000/- per hectare, the reference Court, after considering the evidence tendered on behalf of the respondent, granted compensation @ Rs. 20,000/- per hectare. The amount of compensation granted to the respondent appears to be just and reasonable. No ground has been made out by the appellants for setting aside the judgment passed by the reference Court.

In view of the aforesaid discussion, the first appeal is dismissed with no order as to costs.

JUDGE

RMP